

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

OCT 23 1998

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

WILLIAM R. YOUNG,

Defendant-Appellant.

No. 97-1340
(D.C. 94-CR-169-1)
(District of Colorado)

ORDER AND JUDGMENT *

Before **TACHA** , **HENRY** , and **MURPHY** , Circuit Judges.

On this appeal, William R. Young contended that the district court erred in calculating his sentence and violated his Sixth Amendment right to a speedy trial. While the appeal was pending, however, Mr. Young died. “[D]eath pending direct review of a criminal conviction abates not only the appeal but also all proceedings had in the prosecution from its inception.” United States v. Davis,

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

953 F.2d 1482, 1486 (10th Cir. 1992) (quoting Durham v. United States, 401 U.S. 481, 483 (1971) (per curiam), overruled on other grounds, Dove v. United States, 423 U.S. 325 (1976) (per curiam)). Accordingly, the case is remanded to the district court with directions to vacate the judgment and dismiss the underlying indictment. See id.

Entered for the Court,

Robert H. Henry
Circuit Judge